



Costs Decision

Site visit made on 14 June 2022

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2022

Costs application in relation to Appeal Ref: APP/N1025/W/21/3288723 159 Station Road, Long Eaton NG10 2EJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Ruth Farnsworth for a full award of costs against Erewash Borough Council.
 - The appeal was against the refusal of planning permission for New build 3 Bedroom.
-

Decision

1. The award for costs is dismissed.

Reasons

2. Paragraph 30 of the national Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Applicant submits that the Local Planning Authority (LPA) has acted unreasonably by failing to communicate with them regarding the administrative and decision-making processing of the application, not sharing information with them and not making a timely decision on the development.
4. They comment that the LPA's overall engagement with them was severely lacking. Consequentially, the Applicant was not given the opportunity to amend the scheme or withdraw it. They also comment that the Council were unreasonable in coming to their decision to refuse the scheme based on the Flood Risk Assessment submitted with the proposal.
5. The Local Planning Authority can choose to employ planning consultants to undertake an assessment of the proposal and make a recommendation of the scheme, on behalf of the LPA. Whilst I am not party to their precise working arrangements, this is common practice amongst LPA's to operate this business model.
6. It is agreed between the parties that the planning consultants undertook a site visit, and there is nothing before me to suggest the LPA did not visit the site unaccompanied by the Applicant. The LPA are not obliged to meet the Applicant.
7. There has been delays in the scheme coming before Planning Committee for determination although the Applicant did agree to an extension of time with the

- planning consultants. However, the LPA failed to determine the proposal at their Planning Committee within the agreed extended timeframe. Any complaints on this area are for the Applicant to take up with the LPA.
8. Nevertheless, the Applicant could have decided to appeal the proposal before any determination was made by the LPA. Also, the LPA are not obliged to ask the Applicant to withdraw or amend the scheme before them, or to seek further clarification on matters.
 9. Whilst the LPA confirm it is not their practice to share their consultant's findings and draft reports with the Applicant, this is policy between them and is not within my remit to comment upon. The final version of the report to committee is however a document within the public domain. There is nothing before me to suggest that updates to this report cannot be made by the LPA, or that they must be shared with the Applicant in advance of determination. In addition, there is nothing before me to suggest the Applicant has been disadvantaged by late amendments made to the committee report.
 10. The number of objections received to the scheme triggered the necessity for the decision to be made at Planning Committee. Despite deadlines to make representations to the proposal, and irrespective of whether or not they were received close to the Committee meeting, it is correct procedure for the LPA to take these into account in their assessment. Although the LPA agree there was shortcomings on their behalf by not sharing these representations in a timely manner, this alone would not lead me to conclude it led to unreasonable behaviour on behalf of the LPA.
 11. Points on accuracies of dates when representations were received to the LPA and recorded in their system is not within my scope to comment upon and should be referred to the LPA for clarification. Neither are matters referring to misleading or inaccurate contents of these representations.
 12. Despite the objection from the LPA, I have found that the details submitted by the Applicant of the Flood Risk Assessment together with additional evidence, satisfactorily demonstrates the site can be made resilient to flooding. Some of this information was gathered further to an earlier appeal by the Applicant. The outcome of this appeal has influenced my own decision. Given the timelines when the recent scheme was determined before the outcome of the appeal, it was not unreasonable for the LPA to come to the same conclusion as they had previously made. Therefore, I do not find that the LPA acted unreasonably in this regard.
 13. The Applicant is aggrieved by the service she received from the LPA throughout the planning process. Most of these areas in contention are matters between the two parties and not within my scope to comment upon. However, in coming to my own independent assessment of the scheme, I have, in the main, reached the same overall conclusion as the LPA.
 14. I conclude that none of the types of behaviour which may give rise to a substantive award under the PPG have been established, based on the above. I conclude that no unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated.

Alison Scott

INSPECTOR